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Report of the Working Group on the Universal Periodic Review*

Mauritius

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

* The present document was not edited before being sent to the United Nations translation services.

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Please recycle

Written replies to questions or issues that were not sufficiently addressed during the interactive dialogue of the UPR Working Group in October 2013

129.1. Sign and ratify ICRMW (Sierra Leone)

1. Given its limited resources and Mauritius being small, Government does not propose to sign and ratify the ICRMW for the time being.

129.2. Accede to the second Optional Protocol of the ICCPR (Australia)

2. Following the enactment of the Abolition of Death Penalty Act in 1995, all death sentences imposed have been commuted to sentences of penal servitude for life. However, section 4(1) of the Constitution has not yet been amended to prohibit the imposition of death sentences. Amending the Constitution is not an automatic process. Alteration to section 4 (1) of the Constitution cannot be effected unless it is supported by the votes of not less than three quarters of the members of the National Assembly.

129.3. Ratify the second Optional Protocol to the ICCPR (Estonia)

3. Refer to reply 129.2.

129.4. Ratify the Second Optional Protocol to ICCPR aiming at the abolition of the death penalty (France)

4. Refer to reply 129.2.

129.5. Formally abolish the death penalty by ratifying second Optional Protocol of the ICCPR and support the next General Assembly resolution calling for a moratorium on the death penalty (Germany)

5. Refer to reply 129.2.

129.6. Proceed to the ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (ICESCR) (Benin)

6. The matter is under consideration. However, there are a number of domestic remedies already available to Mauritian citizens. Mauritius being a welfare State, already provides free education, free access to health services, social aid to vulnerable groups and pension benefits to the elderly.

129.7. Proceed to the ratification of the Second Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty (Benin)

7. Refer to replies 129.2.–129.5. above.

129.8. Ratify CPED (France)

8. This has been recommended in the National Human Rights Action Plan 2012-2020. However, since Mauritius has no case of enforced disappearance, ratification is not considered a priority for the time being. There are also a number of policy matters that are still being looked into.

129.9. Ratify the 1951 Convention relating to the Status of Refugees (France)

9. Mauritius, being a small and densely-populated island with stretched limited resources, has not yet adopted a policy or laws to grant refugee status to foreigners. It does however endeavour to treat applications for refugee status or political asylum on a humanitarian, case-to-case basis by facilitating their settlement in a friendly country willing to receive them.

129.10. Withdraw its reservations to the Convention on the Rights of Persons with Disabilities (Togo)

Accessibility

10. As the introduction of Braille signage in all public buildings is costly and will take some time to be implemented, it is proposed to introduce this measure progressively following which the reservation may be withdrawn in due course.

Education

11. Government has already adopted a policy of inclusive education which is being implemented phase-wise. The Ministry of Education and Human Resources has already set up a High Level Committee comprising representatives of the Ministry of Social Security, National Solidarity and Reform Institutions, Mauritius Institute of Education, Ombudsperson for Children and Office of Public Sector Governance with a view to achieving parity on government funding of disabled and non disabled children. The Committee has had consultations with all stakeholders concerned including NGOs looking after the disabled. Once the parity is achieved, Government shall proceed to remove the reservation.

Situations of risk and humanitarian emergencies

12. The National Disaster Risk Reduction and Management Bill currently being prepared by the National Disaster Management Unit will take on board provisions for the disabled. A clause has been included on safe and emergency evacuation of persons with disabilities in situations of risks and natural disasters. It is to be noted that Mauritius had made a reservation to s. 11 of CRPD when it signed the Convention on the Rights of Persons with Disabilities, but did not maintain this reservation when it ratified the Convention.

129.11. Withdraw its reservations to CRPD to articles 9 (accessibility) 24 (education) and 11 (situations of risk and humanitarian emergencies) (Uruguay)

13. Refer to reply 129.10.

129.12. Ratify the Optional Protocol to CRPD (Australia)

14. Refer to reply 129.10.

129.13. Ratify the Convention on the Punishment of the Crime of Genocide (Estonia)

15. This is a recommendation of the National Human Rights Action Plan 2012-2020 and will be considered in due course.

129.14. Sign the 1951 Convention relating to the Status of Refugees and its 1967 Protocol (Spain)

16. Mauritius, being a small and densely-populated island with stretched limited resources, has not yet adopted a policy or laws to grant refugee status to foreigners. It does

however endeavour to treat applications for refugee status or political asylum on a humanitarian, case-to-case basis by facilitating their settlement in a friendly country willing to receive them.

129.15. Ratify the Agreement on the Privileges and Immunities of the ICC (Estonia)

17. Although Mauritius is not yet a party to the Agreement on the Privileges and Immunities of the ICC, at national level, draft regulations for the implementation of the Agreement have already been circulated to relevant Ministries for discussions and comments.

129.16. Ratify the Kampala Convention and create an adequate national and legal policy framework to effectively deal with internally displaced people (Uganda)

18. Given the size and geographical topography of Mauritius, the country does not have problems associated with internally displaced people.

129.17. Make further efforts to review the Constitution with a view to explicitly recognizing economic, social and cultural rights equally with other constitutional rights (Uruguay)

19. Should economic, social and cultural rights be specifically incorporated in the Constitution, Chapter II of the Constitution (which deals with the protection of fundamental rights and freedoms of the individual) shall have to be modified and such alteration cannot be effected unless it is supported at the final voting in the National Assembly by the votes of not less than three quarters of all the members of the Assembly (Section 47 (2) (c) of the Constitution refers).

20. Though the Constitution does not provide expressly for economic, social and cultural rights, yet these rights are catered for under other pieces of legislation (for example, the right to work is provided for under the Employment Rights Act, the right to health in the Mauritius Mental Health Care Act and the Food Act, the right to education in the Education Act.).

21. Furthermore, Mauritius already provides free education; free access to health services, social aid to vulnerable groups, pension benefits to the elderly.

129.18. Grant a legal rank to the ICESCR that allows that its provisions be directly invoked in the domestic legal system (Uruguay)

22. As Mauritius follows the dualist system, international treaties cannot be directly incorporated in the laws of Mauritius.

129.19. Review article 16 (4) (c) of its Constitution to ensure that such a provision is not discriminatory against women (Trinidad and Tobago)

23. Section 16 of the Constitution prohibits discrimination. However, Mauritius does have in place the Muslim Personal Law (MPL) which may be considered as an exception to the norms. Although the MPL may be perceived as being discriminatory towards women, we also have to bear in mind the provisions of s.11 of the Constitution which provides that no person shall be hindered in the enjoyment of his freedom to practice his religion. The above exception to s.16 caters for the specific social fabric of the country and is not intended to conflict with the International Convention on the Elimination of all Forms of Racial Discrimination (CERD).

129.20. Extend a standing invitation to the human rights mechanisms of the United Nations (Costa Rica)

24. In line with the recommendations in the National Human Rights Action Plan 2012-2020, Mauritius will consider extending standing invitations to the Special Procedures at an opportune time.

129.21. Extend a standing invitation to the Special Procedures of the United Nations (France)

25. Refer to reply 129.20.

129.22. Extend a standing invitation to all Special Procedures of the Human Rights Council (Czech Republic)

26. Refer to reply 129.20.

129.23. Finalise issuing a standing invitation to the UN mandate holders, which was already declared to be considered after the first round of the universal periodic review (Turkey)

27. Refer to reply 129.20.

129.24. Remove norms, including at the constitutional level, that may be deemed as an exemption from the prohibition of discrimination, and take practical measures for its implementation (Costa Rica)

28. The Constitution of Mauritius guarantees to all Mauritians the right to equal protection and benefit of the law without discrimination based on race, caste, place of origin, political opinions, colour, creed or sex, and this, in order to maintain and strengthen an environment conducive to equal opportunities and equality for all people. As regards s.16(4) of the Constitution, a taskforce was set up as far back as 2001, to identify discriminatory provisions in our national legislation in relation to international instruments. The Government thereafter had set up a Monitoring Committee, chaired by the Hon. Attorney General, to look into the implementation of the recommendations of the taskforce, with the objective to harmonise our national legislation with the provisions of international instruments to which we are a party. The Monitoring Committee has, since its setting up in February 2010, met on 5 occasions and has held consultations with all stakeholders in order to take on board their views and comments. This process is still on-going,

129.25. Promote concrete action to combat inequality and guarantee the participation of women in social, cultural, political and economic development through affirmative action programmes (Mexico)

- Provision is not made for the application of temporary special measures in our law. The Constitution, which is the supreme law of the country, prohibits discrimination on, inter alia, the ground of sex. It also provides that no law shall be discriminatory either in itself or in its effect. Our Constitution does not provide for positive discrimination.
- Nevertheless this proposal is being taken up seriously at Government level such that in a bid to address the grave deficit in women's representation in the political arena, the Government of Mauritius has enacted a new Local Government Act in 2011 which provides that any group presenting more than 2 candidates in an Municipal or Village Council election shall ensure that the candidates are not of the same sex.. This has indeed been a landmark in history as it has led to an increase in women's participation in these elections held in December 2012, 36.7% and 25.4% women participated in these elections as compared to 12.7% and 5.8% in the 2005 elections.

- A National Steering Committee on Gender Mainstreaming (NSCGM) has been set up under the chairpersonship of the Hon Minister of Gender Equality, Child Development and Family Welfare to monitor and evaluate the implementation of the National Gender Policy Framework in all sectoral Ministries.

129.26. Continue to promote women's participation in decision-making and political participation by providing necessary assistance and capacity building, as well as gradually increasing proportion of women parliamentarians (Thailand)

29. Refer to reply 129.25.

129.27. Consider introducing temporary special measures in areas where women are underrepresented or disadvantaged and raise awareness among parliamentarians and Government officials about the necessity of such measures (Egypt)

30. Refer to reply 129.25.

129.28. Introduce special measures in areas where women are under-represented or disadvantaged and raise awareness among parliamentarians and other government organs (Uganda)

31. Refer to reply 129.25.

129.29. Adopt legislation that explicitly prohibits corporal punishment, and continue awareness raising campaigns on the negative effects of corporal punishment (Uruguay)

32. Corporal punishment is prohibited in schools by virtue of Regulation 13(4) of the Education Regulations, s.7 of the Child Protection Act and s.230 of the Criminal Code. However, the Children's Bill, which is currently under preparation, proposes to specifically prohibit corporal punishment in order to be in line with the international norms set out in the Convention on the Rights of the Children.

129.30. Ensure that the new Police and Criminal Evidence Bill fully addresses the practice of detention on the basis of 'provisional information' by specifying that detention beyond a short time limit, defined in statute, is only possible once a suspect is formally charged (United Kingdom of Great Britain and Northern Ireland)

33. The Police and Criminal Evidence (PACE) Bill, which has already been introduced in the National Assembly, aims at providing, inter-alia, the necessary framework with regard to police powers and safeguards in matters of stop and search, arrest, detention, investigation, identification and interviewing of detainees. As regards the practice of suspects being detained on the basis of provisional information, the Bill makes provision for a police officer not to arrest a person on the basis of a mere allegation by a third party unless he has carried out necessary investigations to verify that an offence has been committed or is about to be committed.

129.31. Repeal the sections of its criminal code that criminalises consensual homosexual activity (Australia)

34. Government has not yet taken any policy decision regarding the decriminalization of sodomy. In view of the sensitivity of the issue, further consultations are required.

129.32. Remove from the Criminal Code the penalization of same-sex conduct between consenting adults (Canada)

35. Refer to reply 129.31.

129.33. Repeal Section 250 of the Criminal Code which criminalises sexual conduct between consenting adults of the same sex (Ireland)

36. Refer to reply 129.31.

129.34. Enact legislation to provide for freedom of information requests (Ireland)

37. Government is presently reviewing the media landscape with the objective of reforming the media law. In this context, a report on Media Law Reform had been commissioned. The aim being that an appropriate media framework be put into place by reviewing, updating and incorporating the latest developments and trends in media for the benefit of both the Government and the public.

129.35. Formulate strict legislation to prevent abuse and exploitation of children with disabilities by parents or other members of society; and provide necessary measures to assist them in their quest of justice (Maldives)

- The Children's Bill which is being finalised will also provide for severe penalties to protect children with disabilities.
- The Child Development Unit of the Ministry of Gender Equality, Child Development and Family Welfare also caters for children with disabilities and as such, there cannot be duplication between the responsibilities of departments and resources have to be used in a cost effective manner.
- A Protocol is being worked out with different Ministries to develop a concerted approach aimed at providing added protection to children with disabilities.

129.36. Continue actions aimed at the return to the Chagos Archipelago of the Chagossians displaced from the island of Diego Garcia and the other islands of the Archipelago and to consider including in these actions processes for the reparation of victims (Mexico)

38. The Chagos Archipelago, including Diego Garcia, forms an integral part of the territory of the Republic of Mauritius under both Mauritian law and international law.

39. The United Kingdom illegally excised the Chagos Archipelago from the territory of Mauritius prior to its accession to independence, in breach of international law and United Nations General Assembly Resolutions 1514 (XV) of 14 December 1960, 2066 (XX) of 16 December 1965, 2232 (XXI) of 20 December 1966 and 2357 (XXII) of 19 December 1967.

40. The illegal excision of the Chagos Archipelago from the territory of Mauritius also involved the shameful eviction by the United Kingdom of the Mauritians who were residing at the time in the Archipelago ('Chagossians') in total disregard of their human rights in order to pave the way for the establishment of a military base by the United States in Diego Garcia. Most of the Chagossians were removed to Mauritius.

41. The long-standing struggle of Mauritius to effectively exercise its sovereignty over the Chagos Archipelago and the right of the former inhabitants of the Chagos Archipelago, as Mauritian citizens, to be resettled in the Archipelago are indissociable. The Government of Mauritius will continue to press for the early and unconditional return of the Chagos Archipelago to the effective control of Mauritius, whilst firmly supporting the right of return of the Chagossians and other Mauritians to the Archipelago.

42. With regard to the question of reparation to the victims, Mauritius is of the view that this should be addressed by the United Kingdom which forcibly removed the former inhabitants of the Chagos Archipelago to Mauritius and continues to deny them and other Mauritians the right of return.